APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,086	12/28/2000	Atul N. Hatalkar	10559-357001 / P10034	3517

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EXAMINER
BRUCKART, BENJAMIN R

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/753,086	HATALKAR, ATUL N.
	Examiner	Art Unit	
	Benjamin R. Bruckart	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 November 2005</u>.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-26* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-26* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Detailed Action

Claims 1-26 are pending in this Office Action.

No claims are amended.

Affidavit and Declarations Under 37 CFR 1.131

Applicant's declaration filed on 37 CFR 1.131 is rejected as being no more than a general

allegation.

Applicant, with regards to conception and diligence, must show:

conception of the invention prior to the effective date of the reference coupled with due diligence from
prior to the reference date to the filing date of the application (constructive reduction to practice).

A general allegation that the invention was completed prior to the date of the reference is

not sufficient. Ex parte Saunders, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a

declaration by the inventor to the effect that his or her invention was conceived or reduced to

practice prior to the reference date, without a statement of facts demonstrating the correctness of

this conclusion, is insufficient to satisfy 37 CFR 1.131.

Applicant in paragraph 3 of the declaration at best makes a vague and general statement

claiming the disclosure contents describe the invention. Applicant is reminded the burden of

proof is upon them to "clearly explain which facts or data applicant is relying on to show

completion of his or her invention prior to the particular date. Vague and general statements in

broad terms about what the exhibits describe along with a general assertion that the exhibits

describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a

showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re

Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation

of the exhibits pointing out exactly what facts are established and relied on by applicant. 505

F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA

1964).

With regards to diligence, MPEP states "Where conception occurs prior to the date of the

reference, but reduction to practice is afterward, it is not enough merely to allege that applicant

or patent owner had been diligent. Ex parte Hunter, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat.

1889). Rather, applicant must show evidence of facts establishing diligence.

Applicant statement has supplied no facts and is therefore improper. Upon review there

are several inconsistencies for example the difference in the titles between the instant application

and the declaration alleged proof and the lack of support in the declaration alleged proof does not

support headers and payloads.

With respect to the 'reduction to practice' requirement; MPEP 715.07(c) states:

The 37 CFR 1.131 affidavit or declaration must contain an allegation that the acts
relied upon to establish the date prior to the reference or activity were carried out in this
country or in a NAFTA country or WTO member country. See 35 U.S.C. 104.
Under 37 CFR 1.131(a), which provides for the establishment of a date of completion of
the invention in a NAFTA or WTO member country, as well as in the United States, an
applicant can establish a date of completion in a NAFTA member country on or after
December 8, 1993, the effective date of section 331 of Public Law 103-182, the North
American Free Trade Agreement Act, and can establish a date of completion in a WTO
member country other than a NAFTA member country on or after January 1, 1996, the
effective date of section 531 of Public Law 103-465, the Uruguay Round Agreements
Act. Acts occurring prior to the effective dates of NAFTA or URAA may be relied upon
to show completion of the invention; however, a date of completion of the
invention may not be established under 37 CFR 1.131 before December 8, 1993 in a
NAFTA country or before January 1, 1996 in a WTO country other than a NAFTA
country.
This rule requires more than the mere act of disclosure. Applicant's disclosure in

paragraph 1 does not meet the requirements and therefore is improper.

Response to Arguments

Applicant's arguments filed on 6/28/05 have been considered but are moot in view of the

new ground(s) of rejection.

Applicant's Invention as claimed:

**Claims 1-4, 6-23 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S.
Patent No. 6,928,081 by McDysan in view of U.S. Patent No. 6,108,699 by Moiin.**

Regarding claim 1,

The McDysan reference teaches a method comprising:

at a system host, transmitting a message to each of a plurality of clients including the first

client (McDysan: col. 5, lines 59-65; col. 28, lines 24-33), the message including a header and a

payload (McDysan: col. 26, lines 36-40), the header including either a group identifier or a client

identifier (McDysan: col. 7, lines 37-56; destination address), the payload including a group

membership file including information indicative of client memberships in two or more groups if

the header is a group identifier, or a client specific payload associated with the client identifier if

the header is a client identifier (McDysan: col. 18, lines 24-26).

The McDysan reference does not explicitly state a client to store an identifier.

The Moiin reference teaches:

storing data indicative of membership at a first client (Moiin: col. 5, lines 20-35);

updating the data indicative of membership at the first client if the message contains the

group identifier and the group membership file includes client memberships associated with the

first client; and

processing the message at the first client if the message contains a client identifier associated with the first client (Moiin: col. 6, lines 4-20).

Moiin further teaches the system can tolerate consecutive failures and improve the reliability (Moiin: col. 2, lines 1-7).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the system of transmitting a group identifier or client identifier as taught by McDysan while employing a group membership file as taught by Moiin in order to improve the reliability by tolerating consecutive failures (Moiin: col. 2, lines 1-7).

Claims 2-3, 6-12, 26 are rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of McDysan and Moiin.

Regarding claim 2, the method of claim 1, wherein the data indicative of membership comprises a first group identifier (McDysan: col. 26, lines 33-65).

Regarding claim 3, the method of claim 2, further comprising:

creating a first group including two or more member clients, a member client having a client identifier (McDysan: col: 26, lines 33-65; Moiin: col. 5, lines 20-35);

assigning the first group identifier to the first group (McDysan: col. 26, lines 33-65); and

associating the client identifiers of the member clients with the first group identifier in the group membership file (McDysan: col. 26, lines 56-65).

Regarding claim 4, the method of claim 3, wherein the each member client satisfies a criterion
(Moiin: col. 6, lines 3-20).

Regarding claim 6, the method of claim 2, further comprising:

transmitting a message including a payload and a second group identifier (McDysan: col.
26, lines 33-56; Moiin: col. 7, lines 9-30; prospective cluster);

receiving the message at the first client (Moiin: col. 7, lines 14-17); and

extracting the payload from the message in response to the first group identifier matching
the second group identifier (Moiin: col. 7, lines 41-49).

Regarding claim 26, the method of claim 1, wherein the group membership file includes a

plurality of group membership identifiers associated (McDysan: col. 26, lines 56-65) with a

plurality of client identifiers corresponding to a plurality of clients (McDysan: col. 5, lines 43-

50).

Claims 7-12 are rejected as having substantially the same limitations as the claims above

therefore the rejection above remains on claims 7-12.

Regarding claim 13, an apparatus comprising:

a receiver operative to receive a message including a header and a payload (McDysan:

col. 7, lines 37-57); the header including either a group identifier or a client identifier (McDysan:

col. 7, lines 37-56; destination address), the payload including a group membership file, the

group membership file and two or more associated member identifiers if the header is a group

identifier or a client specific payload associated with the client identifier if the header is a client

identifier (McDysan: col. 18, lines 24-26);

a receiver controller operative to store the group identifier in the memory in response to

message including a group identifier that and the apparatus identifier matches one of the member

identifiers.

The McDysan reference does not explicitly state a client to store an identifier.

The Moiin reference teaches:

a memory operative to store an apparatus identifier (Moiin: col. 5, lines 20-35);

a receiver operative to receive a message including a header and a payload (Moiin: col. 5,

lines 55-61);

a processor to process the client specific payload if the message includes a client

identifier and the apparatus identifier matches the client identifier (Moiin: col. 6, lines 3-20).

Moiin further teaches the system can tolerate consecutive failures and improve the

reliability (Moiin: col. 2, lines 1-7).

Therefore it would have been obvious at the time of the invention to one of ordinary skill

in the art to create the system of transmitting a group identifier or client identifier as taught by

McDysan while employing a group membership file as taught by Moiin in order to improve the

reliability by tolerating consecutive failures (Moiin: col. 2, lines 1-7).

Claims 14-17 are rejected under the same rationale given above. In the rejections set

fourth, the examiner will address the additional limitations and point to the relevant teachings of

McDysan and Moiin.

Regarding claim 14, the apparatus of claim 13, wherein the group membership file comprises

two or more group identifiers, a group identifier associated with two or more member identifiers

(McDysan: col. 26, lines 33-65; Moiin: col. 5, lines 20-35).

Regarding claim 15, the apparatus of claim 13, wherein the receiver controller is operative to

identify each group identifier associated with a member identifier that matches the apparatus

identifier, and to update the memory to include such identified group identifiers (Moiin: col. 7,

lines 53-61).

Regarding claim 16, the apparatus of claim 15, wherein the updating comprises removing a

stored group identifier in response to the group identifier not being associated with the apparatus

identifier in the group membership file (Moiin: col. 7, lines 53-61; overwrite is destructive).

Regarding claim 17, the apparatus of claim 13,

wherein the receiver controller is operative to discard the message in response to either of

the group identifier or the client identifier not matching the apparatus identifier (McDysan: col.

7, lines 62-66; col. 26, lines 47-55).

Regarding claim 18,

The McDysan reference teaches a system host comprising:

a memory for storing a group membership file and at least on client specific payload

(McDysan: col. 26, lines 33-65), the group membership file including two or more group

identifiers (McDysan: col. 26, lines 33-65), a group identifier associated with two or more

member identifiers (McDysan: col. 26, lines 56-65), the at least one client specific payload being

directed to a predetermined client (McDysan: col. 18, lines 24-26);

a group generator operative to create a first group including two or more first group

member identifiers that share a first criterion and associate a group identifier with the two or

more first group membership identifiers in the group membership file (McDysan: col. 26, lines

33-46); and

the message including a header having either a group identifier associated with the group

membership file or a client identifier associated with the predetermined client (McDysan: col. 7,

lines 37-56; destination address).

The McDysan reference does not explicitly state a client to store an identifier.

Moiin teaches a transmitter operative to transmit a message containing at least one of the

group membership file and the at least one client specific payload to each of a plurality of client

devices (Moiin: col. 7, lines 53-61), two or more of the client devices having client identifiers that match the first group member identifiers (Moiin: col. 7, lines 53-61), and one of the plurality of client devices being the predetermined client.

Moiin further teaches the system can tolerate consecutive failures and improve the reliability (Moiin: col. 2, lines 1-7).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the system of transmitting a group identifier or client identifier as taught by McDysan while employing a group membership file as taught by Moiin in order to improve the reliability by tolerating consecutive failures (Moiin: col. 2, lines 1-7).

Claims 19-20 are rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of McDysan and Moiin.

Regarding claim 19, the system host of claim 18, further comprising: a transmission controller operative to transmit the group membership file to the plurality of client devices at scheduled intervals (Moiin: col. 5, lines 20-35; col. 6, lines 1-20).

Regarding claim 20, the system host of claim 19, wherein the group generator is operative to

update the group membership file and transmit the updated group membership file to each of the

plurality of client devices (Moiin: col. 7, lines 9-30; 53-61).

Regarding claim 21,

      The McDysan reference teaches a system comprising:

      a system host (McDysan: col. 5, lines 59-65) comprising:

      a memory for storing a group membership file and at least one client specific payload

(McDysan: col. 26, lines 45-65), the group membership file including two or more group

identifiers (McDysan: col. 26, lines 56-65), each group identifier associated with two or more

member identifiers (McDysan: col. 26, lines 47-65), the client specific payload being directed to

a predetermined client (McDysan: col. 28, lines 28-34);

      a group generator operative to create a first group including two or more first group

member identifiers that share a first criterion (McDysan: col. 26, lines 33-46) and associate a

first group identifier with the two or more first group membership identifiers in the group

membership file (McDysan: col. 26, lines 33-46);

      a transmitter operative to transmit a message containing either a group identifier and an

associated group membership file, or a client identifier and an associated at least one client

specific payload (McDysan: col. 26, lines 56- col. 27, line 27); and

      a plurality of clients (McDysan: col. 5, lines 43-50), each client comprising:

      The McDysan reference does not explicitly state a client to store an identifier.

The Moiin reference a memory for storing a group membership file and at least one client specific payload (Moiin: col. 5, lines 18-30),

a plurality of clients (Moiin: col. 4, lines 13-21), each client comprising:

a memory operative to store an apparatus identifier (Moiin: col. 5, lines 20-35);

a receiver operative to receive the message in a first transmission and determine whether the message contains a group membership file or a client specific payload (Moiin: col. 5, lines 56-61; col. 7, lines 7, lines 53-61); and

a receiver controller operative to store a group identifier in the memory in response to said apparatus identifier matching one of the member identifiers (Moiin: col. 7, lines 53-61); and

a processor to process a client specific payload if the message contains a client specific payload and the client is the predetermined client (Moiin: col. 5, lines 56- col. 6, lines 20).

Moiin further teaches the system can tolerate consecutive failures and improve the reliability (Moiin: col. 2, lines 1-7).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the system of grouping clients and transmitting a group message as taught by McDysan while employing a group membership file as taught by Moiin in order to improve the reliability by tolerating consecutive failures (Moiin: col. 2, lines 1-7).

Claims 22-23 are rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of McDysan and Moiin.

Regarding claim 22, the system of claim 21, wherein the communication link comprises a

transmission line (McDysan: col. 5, lines 43-59).

Regarding claim 23, the system of claim 21, wherein the data is communicated along a wireless

communication link (McDysan: col. 8, lines 64- col. 9, line 13).

Claims 5 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,928,081 by McDysan in view of U.S. Patent No. 6,108,699 by Moiin in further view of U.S. Publication No. 2002/0038383 by Ullman et al.

Regarding claim 5,

The McDysan and Moiin reference teaches sending membership data to clients.

The McDysan and Moiin references do not explicitly state profile information.

The Ullman reference teaches the method of claim 4, wherein the criterion comprises

client profile information (Ullman: page 2, para 15).

The Ullman reference further teaches grouping by profile allows the client to received

targeted information relevant to their interests (Ullman: page 2, para 15).

Therefore it would have been obvious at the time of the invention to one of ordinary skill

in the art to create the system of grouping clients and transmitting a group messages as taught by

McDysan and Moiin while employing profile data as taught by Ullman in order to provide

targeted information relevant to the clients interests.

Claim 24 is rejected under the same rationale given above. In the rejections set fourth, the

examiner will address the additional limitations and point to the relevant teachings of Ullman,

McDysan and Moiin.

Regarding claim 24, the system of claim 21, wherein the client devices comprise set-top

appliances adapted for connection to a television (Ullman: page 5, para 52 and 54).

**Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent
No. 6,928,081 by McDysan in view of U.S. Patent No. 6,108,699 by Moiin in further view of
U.S. Patent No. 6,160,804 by Ahmed et al.**

Regarding claim 25,

The McDysan and Moiin references teach the system of claim 21.

The McDysan and Moiin references do not explicitly state client is a wireless handheld

device.

The Ahmed reference teaches wherein the client devices comprise hand-held wireless

communication devices (Ahmed: col. 6, lines 17-65).

The Ahmed reference further teaches the invention is an efficient, scaleable and flexible

communications system that groups the mobiles by location and assigns their ID to the groups in

which they visit (Ahmed: col. 3, lines 34-42; col. 14, lines 20-56).

Therefore it would have been obvious at the time of the invention to one of ordinary skill

in the art to create the system of grouping clients and transmitting a group messages as taught by

McDysan and Moiin while employing mobile wireless devices as taught by Ahmed in order to

group and locate the wireless devices that are mobile in an efficient, scalable and flexible

manner.

REMARKS

Applicant has not amended the claims but has provided a declaration filed 37 CFR 1.131.

The declaration is rejected, see above support. Claim 13's status operator is incorrectly labeled

"Currently Amended" when no amendments can be found.
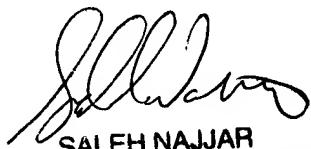
Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-

3982. The examiner can normally be reached on 8:00-5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benjamin R Bruckart
Examiner
Art Unit 2155

brb

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER